

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the matter of )

Amendment of Section 73.202(b) )

Table of Allotments, )

FM Broadcast Stations. )

(Jasper, Arkansas) )

(Milford, Utah) )

MB Docket No. 02-330

RM-10588

MB Docket No. 02-331

RM-10589

NOTICE OF PROPOSED RULEMAKING

Adopted: October 16, 2002

Released: October 25, 2002

Comment Date: December 16, 2002

Reply Comment Date: December 31, 2002

By the Assistant Chief, Audio Division:

1. The Audio Division has before it for consideration a multiple docket Notice of Proposed Rule Making setting forth two separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. The petitioner for each proposal has stated that it will apply for each requested channel, if allotted. Each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket Notice of Proposed Rule Making issued in response to a Commission Public Notice released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single Notice of Proposed Rule Making. Each proposal has its own docket and rule making number and the Commission's Reference Information Center will maintain a separate file for each docket. As discussed in the Public Notice, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

A. MB Docket No. 02-330; RM-10588

Petitioner: JEM Broadcasting Company, Inc.  
Elvis Moody, President  
101 Christian Lane  
Bentonville, Arkansas 72712

**Proposal:** Allot Channel **245A** at Jasper, Arkansas, as that community's first local a d transmission service.<sup>1</sup>

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Jasper, Arkansas	— _ —	245A

**Coordinates:** 36-00-29 NL and 93-11-11 WL

**Additional Information:** The allotment is at city reference coordinates and **requires** no site restriction.

In compliance with § 1.52 of the Commission's rules, petitioner is requested to include with its comments verification that the statements contained in the petition **are** accurate to **the** best of its **knowledge?**

**FCC Contact:** Rolanda F. Smith (202) 418-2180

**B. MB Docket No. 02-331: RM-10,589**

**Petitioner:** Larry Jackson  
7107 ~~Bur Oak~~ Ct. Apt. 1  
Louisville, KY 40291

**Proposal:** Allot Channel **288C2** at Milford, **Utah**, as that community's first local a d transmission service.<sup>3</sup>

<u>community</u>	<u>Present</u>	<u>Proposed</u>
Milford, Utah	-----	288C2

**Coordinates:** 38-23-49 NL and 113-00-36 WL

**Additional Information:** **This** allotment is at city reference coordinates and requires no site restriction.

<sup>1</sup> Jasper is an incorporated community with a 2000 U.S. Census population of **498** persons. Jasper is the county seat of Newton County, Arkansas and **serves** as the center of local government.

<sup>2</sup> Although the petitioner's request was signed, it failed to include an affidavit verifying that the statements contained in the petition were accurate **to** the best of its knowledge. Section 1.52 of the Commission's Rules require that the original of any document filed with the Commission by a party **not represented by counsel** **be signed and verified** by the party and his/her address **stated**. In the absence of **such** verification, the **petition may be dismissed**. Section 1.401(b) of the Commission's Rules concerning rule making proceedings places petitioners on notice that their proposal must conform with the requirements of Section 1.52 regarding subscription and verification. **See also Amendment of Sections 1.420 and 73.3584 of the Commission's Rules Concerning Abuses of the Commission's Processes**, 5 FCC Rcd 3911, 3919, n.41 (1990). The petitioner is requested to rectify this omission in its comments.

<sup>3</sup> Milford is an incorporated community with a 2000 **U.S.** Census population of **1,451** persons. Milford is in Beaver County east of the **Wah** Wah Mountains. Milford has an airport, hospital, school system, and public library. Milford also has a city council with an elected mayor.

In compliance with § 1.52 of the Commission's rules, petitioner is requested to include with his comments verification that the statements contained in the petition **are** accurate to the best of his knowledge.<sup>4</sup>

**FCC Contact: Rolanda F. Smith (202) 418-2180.**

3. Comments, reply comments, counterproposals and other pleadings **filed** in response to this multiple docket **Notice** of Proposed Rule **Making** should reference **only** the specific docket to which the filing **pertains**. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements **are** contained in the attached Appendix and **are** incorporated by reference herein. In particular, we note that a showing of continuing interest is required in paragraph 2 of **the** Appendix before a channel will be allotted.

4. Pursuant to Sections **1.415** and **1.419** of the Commission's Rules, interested parties **may** file comments on or before **December 16, 2002**, and reply comments on or before **December 31, 2002**, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Federal Communications Commission, Office of the Secretary, **445** Twelfth Street, SW, TW-A325, Washington, D.C. **20554**. Additionally, a copy of such comments should be served on the petitioner, **as** listed above for each docket.

5. The Commission **has** determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a **rule making** proceeding to amend the FM Table of Allotments, **Section 73.202(b)** of the Commission's Rules?

6. **For** further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of this restricted notice and comment rule making proceeding, members of the public **are** advised that no **ex parte** presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. **An ex pane** presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or any **summary** of **any** new information shall be served by the person making the presentation upon the other parties to the proceeding in particular docket unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an **ex parte** presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an **ex parte** presentation and shall not be considered in the proceeding.

7. Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although **we** continue to experience delays in receiving **U.S.** Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive handdelivered or messengerdelivered paper filings for the Commission's **Secretary** at 236 Massachusetts Avenue, **N.E.** Suite **110**, Washington, D.C. **20002**. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes **must** be disposed of before **enterng** the **building**. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must **be** sent to

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<sup>4</sup> See n.2, *supra*.

<sup>5</sup> See *Certification that Section 603 and 601 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549 (February 9, 1981).

9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12<sup>th</sup> Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary. Office of the Secretary, Federal Communications Commission.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief, Audio Division  
Media Bureau

Attachment: Appendix

APPENDIX

1. Pursuant to authority found in Sections **4(i)**, **5(c)(1)**, 303(g) and (r), and 307(b) of ~~the~~ Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules. IT IS PROPOSED TO AMEND the FM Table of Allotments, **Section 73.202(b)** of the Commission's Rules and Regulations, as set forth in the Notice *of Proposed Rule Making* to which this Appendix is attached.

2. Showings Required. Comments **are** invited on the proposal(s) **discussed** in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to **answer** whatever questions **are** presented in initial comments. The proponent of a proposed allotment is **also** expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. **Failure** to file may lead to denial of the **request**.

3. Cut-off protection. The following procedures **will** govern the consideration of **filings** in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not **be** considered if advanced in reply comments. (*See* Section **1.420(d)** of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposals in **this Notice**, they will be considered **as** comments in the proceeding. and Public Notice to this effect will be given **as long as** they **are** filed before the date for filing **initial** comments herein. If they **are** filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead ~~the~~ Commission to allot a different channel ~~than~~ was requested for any of the communities involved.

4. Comments and Reply Comments: Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments **and** reply comments on ~~or~~ before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by **persons** acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments **shall be** served on the petitioner by the person filing the comments. Reply comments **shall** be served on the **person(s)** who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by **a** certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th ~~Street~~, S.W., TW-A325, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of **all** comments, reply comments, pleadings, briefs, or other documents shall ~~be~~ furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in ~~the~~ Commission's Reference Information Center (Room CY-A257) at its headquarters. **445 12<sup>th</sup>** Street, S.W, Washington, D.C.

